

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(EASTERN DIVISION)

In re)
BUY THE CASE, LLC) Chapter 7
Debtor.) Case No. 14-11323-JNF

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**DEBTOR'S MOTION FOR AUTHORITY SELL ASSETS
FREE AND CLEAR BY PRIVATE SALE
[Substantially All Business Assets]**

David B. Madoff, the Chapter 7 Trustee (the “Trustee”) of Buy the Case, LLC (the “Debtor”), hereby moves this Court, pursuant to Section 363 of the Bankruptcy Code, for authority to sell by private sale to Bozzuto’s Inc. or its assignee (the “Buyer”), substantially all of the Debtor’s business assets, as set forth more fully in the Asset Purchase Agreement attached hereto as Exhibit “A” (the “Business Assets”), free and clear of all liens, claims, interests and encumbrances. In support of this Motion, the Trustee states:

Background

1. On March 28, 2014 (the “Petition Date”), the Debtor filed a voluntary petition under Chapter 7 of the Bankruptcy Code and the Trustee was appointed.
2. As of the Petition Date, the Debtor owned the Business Assets, which consist of the following: Domain name and trademarks of the shopping site www.buythecase.net; Code base (complete set of development code used to operate the shopping site including all PHP scripts, style sheets, and API calls); Copy and artwork (all web copy, design elements, and logos); Transaction database; Product database; and, BTC-360 Code base.

Proposed Private Sale

4. Subject to approval of the Bankruptcy Court, the Trustee had accepted an offer from the Buyer to purchase the Business Assets for the sum of \$15,000.00 (the "Purchase Price") to be paid as follows: \$1,500.00 has been paid as a deposit and is being held by the Trustee in escrow pending approval of the proposed sale to the Buyer; and \$13,500.00 is to be paid by bank check, certified check or money order, made payable to David B. Madoff, on or within three (3) business days of the entry of an Order of the Court Approving the Sale to the Buyer.

5. The Buyer is not a disinterested person as defined by 11 U.S.C. § 101(14). The Buyer has done business with the Debtor in the past and is listed as a creditor in the Debtor's bankruptcy case.

Sale Free and Clear of Liens

6. The sale of the Business Assets is to be made free and clear of all liens and other monetary interests in the same. Accordingly, the Trustee requests that this Court order that any remaining liens in the Business Assets attach to or affect the proceeds of the sale to the same extent, and in the same order of priority, as each such interest now attaches to or affects the Business Assets, subject, in each case, to this Court's power to determine subsequently the validity, extent and priority of any liens, encumbrances or other interest.

Counteroffers and Break Up Fee

7. The Trustee requests that any qualifying counteroffer for the Business Assets must equal or exceed \$15,750.00, which is five percent over the Purchase Price, must be accompanied by a deposit in the amount of \$1,575.00, and must be made on the same or better terms and conditions as the agreement with the Buyer. The Trustee further requests that in the

event that the Business Assets are purchases by a party other than the Buyer, that the Buyer shall be entitled to the return of its deposit, plus an additional \$500.00 break-up fee.

Benefit to the Estate and Notice

8. The Trustee believes that the sale of the Property to the Buyer is a benefit to the estate and should be approved pursuant to Sections 363(b), 363(f)(1) and (2), and 363(h) of the Bankruptcy Code. The Trustee has considered the value of the Business Assets and believes the Purchase Price is reasonable. The Purchase Price is likely to be greater than any amount that would be realized through a public auction. In addition, because the sale will be subject to counteroffers, a higher final sales price is possible.

9. Copies of this Motion have been served upon the United States Trustee, the Debtor and all parties that have requested notice of pleadings in this case. A copy of the Notice of Sale, attached hereto as Exhibit "B", shall be served on all creditors. The Trustee requests that this Court find such service to be appropriate and sufficient notice in the particular circumstances.

Respectfully submitted this 22nd day of October, 2014.

David B. Madoff, Chapter 7 Trustee

By his attorneys,

/s/ *Steffani M. Pelton*
David B. Madoff (BBO#552968)
Steffani M. Pelton (BBO#666470)
MADOFF & KHOURY LLP
124 Washington Street – Ste. 202
Foxborough, Massachusetts 02035
(508) 543-0040
madoff@mandkllp.com

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CERTIFICATE OF SERVICE

I, Steffani M. Pelton, hereby certify that on October 22, 2014, I caused copies of Trustee's Motion to Sell Assets Free and Clear by Private Sale [Business Assets], to be served by United States first class mail, postage prepaid or by ECF, upon the following parties

SERVICE LIST

Thomas Benner - tbenner@tbennerlaw.com,
ldowning@tbennerlaw.com;lweinkauf@tbennerlaw.com;G6379@notify.cincompass.com

John Fitzgerald - USTPRegion01.BO.ECF@USDOJ.GOV

Neil Hartzell - neil.hartzell@leclairryan.com, neil.hartzell@leclairryan.com

Nina M. Parker - nparker@nинапаркер.com,
rgorski@nинапаркер.com;knicholson@nинапаркер.com;aprilp@nинапаркер.com

Mark C. Rossi - Esher.RossiECF@gmail.com, Esher.RossiECF2@gmail.com

Dated this 22nd day of October, 2014

/s/ Steffani M. Pelton
David B. Madoff (BBO#552968)
Steffani M. Pelton (BBO#666470)
MADOFF & KHOURY LLP
124 Washington Street – Ste. 202
Foxborough, Massachusetts 02035

(508) 543-0040
pelton@mandkllp.com